

## § 802.65

3. In example 1, the exemption does not apply if X is also an institutional investor of the same type as either A or B.

4. Assume that H is a holding company which controls a life insurance company, a casualty insurer and a finance company. The life insurance company controls a data processing company which performs services for the two insurers. Any acquisition by any of these entities could qualify for exemption under this section.

5. In example 4, if H also controls a manufacturing entity, H is not an institutional investor, and only the acquisitions made by the two insurance companies, the finance company and the data processing company can qualify for the exemption under this section.

[43 FR 33544, July 31, 1978, as amended at 66 FR 8694, Feb. 1, 2001; 70 FR 4996, Jan. 31, 2005]

## § 802.65 Exempt acquisition of non-corporate interests in financing transactions.

An acquisition of non-corporate interests that confers control of a new or existing unincorporated entity is exempt from the notification requirements of the Act if:

(a) The acquiring person is contributing only cash to the unincorporated entity;

(b) For the purpose of providing financing; and

(c) The terms of the financing agreement are such that the acquiring person will no longer control the entity after it realizes its preferred return.

[70 FR 11514, Mar. 8, 2005]

## § 802.70 Acquisitions subject to order.

An acquisition shall be exempt from the requirements of the act if the voting securities or assets are to be acquired from an entity pursuant to and in accordance with:

(a) An order of the Federal Trade Commission or of any Federal court in an action brought by the Federal Trade Commission or the Department of Justice;

(b) An Agreement Containing Consent Order that has been accepted by the Commission for public comment, pursuant to the Commission's Rules of Practice; or

(c) A proposal for a consent judgment that has been submitted to a Federal court by the Federal Trade Commis-

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sion or the Department of Justice and that is subject to public comment.

[63 FR 34594, June 25, 1998]

## § 802.71 Acquisitions by gift, intestate succession or devise, or by irrevocable trust.

Acquisitions resulting from a gift, intestate succession, testamentary disposition or transfer by a settlor to an irrevocable trust shall be exempt from the requirements of the act.

## § 802.80 Transitional rule for transactions investigated by the agencies.

§§ 801.2 and 801.50 shall not apply to any transaction that has been the subject of investigation by either the Federal Trade Commission or the Antitrust Division of the Department of Justice in which, prior to the effective date of that section, the reviewing agency obtained documentary material and information under compulsory process from all parties that would be required to submit a Notification and Report Form for Certain Mergers and Acquisitions under Section 801.50 but for this transitional rule.

[70 FR 11514, Mar. 8, 2005]

## PART 803—TRANSMITTAL RULES

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803.1 Notification and Report Form.

803.2 Instructions applicable to Notification and Report Form.

803.3 Statement of reasons for noncompliance.

803.4 Foreign persons refusing to file notification.

803.5 Affidavits required.

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803.7 Expiration of notification.

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803.9 Filing fee.

803.10 Running of time.

803.11 Termination of waiting period.

803.20 Requests for additional information or documentary material.

803.21 Additional information shall be supplied within reasonable time.

803.30 Formal and informal interpretations of requirements under the Act and the rules.

803.90 Separability.

APPENDIX TO PART 803—NOTIFICATION AND REPORT FORM FOR CERTAIN MERGERS AND ACQUISITIONS

AUTHORITY: 15 U.S.C. 18a(d).